Hearing Date and Time:
April 23, 2010 at 10:00 a.m.

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GM Components Holdings LLC

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	**Chapter 11**
DPH Holdings CORP., et al.,	**Case No. 05-44481 (RDD)**
Debtors.	**(Jointly Administered)**

REPLY STATEMENT OF GM COMPONENTS HOLDINGS LLC REGARDING CLAIMS OBJECTION BETWEEN REORGANIZED DEBTORS AND THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

GM Components Holdings LLC ("Components"),[1] respectfully submits this Reply to the "Reorganized Debtors' Response to the Statement of GM Components Holding LLC Regarding Claims Objection Between Reorganized Debtors and the New York State Department of Environmental Conservation" ("Reorganized Debtors' Response") and to the Response of the New York State Department of Environmental Conservation to the Statement of GM Components Holding LLC Regarding Claims Objection Between Reorganized Debtors and the New York State Department of Environmental Conservation" ("NYSDEC Response").

A. Components Did Not Assume Reorganized Debtors' Liabilities

1. DPH Holdings Corp. and certain of its affiliated debtors in the above-captioned cases (collectively, the "Reorganized Debtors") and the New York State Department of Environmental Conservation ("NYSDEC") mischaracterize both the Court's Plan Modification Order[2] of July 30, 2009, and the Master Disposition Agreement ("MDA") of the same date. Under both of those documents, Components acknowledged that it would undertake those responsibilities which a buyer and new

[1] Components is a wholly-owned subsidiary of General Motors LLC. On June 1, 2009, Motors Liquidation Company (f/k/a General Motors Corporation) commenced a voluntary case under chapter 11 of title 11 of the United States Bankruptcy Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York. On July 5, 2009, an order was entered approving the sale of certain assets of Motors Liquidation Company to a new and independent company, General Motors LLC, under section 363 of the Bankruptcy Code. The sale to General Motors LLC closed on July 10, 2009. General Motors LLC formed Components as a separate entity to hold certain assets purchased from Delphi Corporation (the "Debtor") effective upon closing of that transaction on October 6, 2009.

[2] Order Approving Modifications under 11 U.S.C. § 1127(b) to (I) First Amended Joint Plan of Reorganization of Delphi Corporation and Certain Affiliates, Debtors, and Debtors-in-Possession, as Modified and (II) Confirmation Order (Docket No. 12359).

owner of the Lockport and Rochester Properties would have under federal and state law. But, under neither of those documents did Components assume the liabilities of the Reorganized Debtors or become their successor in any way.

2. Indeed, the provision of the Plan Modification Order upon which the Reorganized Debtors and NYSDEC principally rely – paragraph 63(ii) – actually confirms that Components did not take any obligation that it would not have otherwise had as a buyer and new owner of the properties under law. Paragraph 63(ii)(1) states in relevant part that:

> Nothing in this Order or the Master Disposition Agreement releases, nullifies or enjoins the enforcement of any Liability to a governmental unit under Environmental Laws (as the term is defined in Master Disposition Agreement) or regulations . . . **that Buyers would be subject to under as the owner, lessor, or operator of the property after the date of entry of this order.**

Plan Modification Order ¶ 63(ii)(1) (Emphasis added). Nothing in this paragraph states that Components assumed any obligation of the Reorganized Debtors.

3. Paragraph 63(ii)(2) is to the same effect:

> GM Components, **as Buyer** of the Delphi Automotive Systems Site located at 1000 Lexington Avenue, Rochester, New York, identified in the New York State Department of Environmental Conservation ("NYSDEC") Environmental Site Remediation Database as Site Code 828064 (the "Rochester Facility"), and the Delphi Thermal Systems Facility located at 200 Upper Mountain, Lockport, New York, identified in the NYSDEC Environmental Site Remediation Database as Site Codes C932138, C932139, C932140, and 932113 and in the NYSDEC Spill Incidents Database as Site Code 0651261 (collectively, the "Lockport Facility"), **acknowledges** that it shall be responsible for conducting investigation and remediation of the Rochester Facility and the Lockport Facility in accordance with applicable Environmental Laws.

Plan Modification Order ¶ 63(ii)(2) (emphasis added). The paragraph refers to Components **acknowledging** certain responsibilities **as buyer**, but not **assuming** the responsibilities of anyone else.

4. Prior to the entry of the Plan Modification Order, NYSDEC had objected to the MDA because it had not included language expressly stating that Components had assumed the Reorganized Debtors' liabilities at the Lockport and Rochester Properties. In its July 14, 2009 "Objection of the State of New York to Debtors' Motion for Entry of Order Approving Modifications to Confirmed Amended First Plan of Reorganization and the Master Disposition Agreement Attached Thereto" ("NYSDEC Objection to MDA"), NYSDEC contended that "[t]he MDA should be amended to state explicitly that the obligation to clean up the Rochester Site and the Lockport Facility **will be assumed** by the buyers of those sites." ¶ 9 (emphasis added). Components emphatically rejected this position. As Components' counsel David Berz stated in a July 19, 2009 e-mail to Reorganized Debtors' counsel Kenneth Berlin (attached as Exhibit I):

> The new owner and operator will take the property subj [*sic*] to obligations under env [*sic*] law of any owner operator for sites it owns. **That said, the new owners should be entitled to negotiate a** [*sic*] **with the regulators on what remedies may be required rather than simply assuming the remedies preferred by the State. If these are off site liabilities, then the debtor's liability is limited** [*sic*] **the claims process**. **Finally, also related to off site liabilities, the new owners should not be liable for such liabilities as the assets are to be sold free and clear** and I assume the order on the sale will make clear that they are being sold as such and without any risk of future claims for successor liability.

(Emphasis added). Mr. Berlin responded in an e-mail the same day (attached as Exhibit J): "I do not believe that anyone has argued that GM has successor liability and there is clearly no basis for such an argument in this transaction."

5. As ultimately negotiated among Components, the Reorganized Debtors, and NYSDEC, the final version Paragraph 63(ii) of the Plan Modification Order, did **not** follow NYSDEC's approach and state that Components had assumed the Reorganized Debtors' liability. Rather, it followed Components' position simply acknowledged that Components, as a buyer, would have certain responsibilities.

6. The Reorganized Debtors argue that the language of Paragraph 63(ii) of the Plan Modification Order "trumps" the language of Paragraph of 9.38 of the MDA which expressly stated that no buyer of the Reorganized Debtors' assets "assumes any Liability under Environmental Laws[3] of" the Debtors. MDA at ¶ 9.38. But this is not case; the two provisions are consistent: in neither provision did Components assume the Reorganized Debtors' environmental liabilities. Rather than one document "trumping" the other, the MDA and Plan Modification Order were executed and entered simultaneously should be interpreted as parts of a single transaction. *See* In re Olympic Mills Corp., 477 F.3d 1 (1st Cir. 2007). It is a black letter law principle that "when the provisions contained in the written contracts are susceptible to inconsistent constructions, it is the duty of the court, when such procedure is reasonably possible, to avoid an

[3] The term "Liabilities" as defined in Article 1.1 of the MDA includes "any and all liabilities of every kind and description whatsoever." The term "Environmental Laws" is also defined in Article 1.1 of the MDA and includes "any and all statutes, rules regulations," etc. relating to pollution and protection of the Environment or protection of human health from environmental hazards."

interpretation which will bring them into conflict." Centrosoyus-America, Inc. v. United States, 30 F.3d 302, 304 (S.D.N.Y. 1928); accord, Cruden v. Bank of New York, 957 F.2d 961, 976 (2d Cir. 1992) ("the entire contract must be considered, and all parts of it reconciled, if possible, to avoid an inconsistency.") Components' interpretation harmonizes the MDA and the Plan Modification Order; NYSDEC and the Reorganized Debtors' interpretation creates an unnecessary and unintended inconsistency between them.

8. The language of Paragraph 63(ii) in the July 30, 2010 Plan Modification Order is best understood in the context of proceedings in In re General Motors Corp., chapter 11 case no. 09-50026 (REG) (Bankr. S.D.N.Y.) less than a month earlier.[4] In that case, Components' parent company General Motors LLC ("New GM") was seeking to buy assets from the chapter 11 debtor General Motors Corporation ("Old GM"), including manufacturing properties in New York State. NYSDEC objected that New GM should not be allowed to purchase these properties without assuming environmental liabilities associated with them as the successor to Old GM. In a lengthy opinion issued on July 5, 2010, In re General Motors Corp., 407 B.R. 463, 507-08 (Bankr. S.D.N.Y. July 5, 2009), Judge Gerber rejected NYSDEC's arguments and held that the properties could be transferred to New GM without Old GM stepping into its liabilities. Judge Gerber discussed the reasons for rejecting NYSDEC's argument and concluded that "[a]ny old GM properties to be transferred will be transferred free and clear of successor liability."

[4] As cited by the Reorganized Debtors, the Second Circuit held recent in Israel v. Chabra, 2010 U.S. App. LEXIS 6734, *2, n. 2 (2d Cir. April 1, 2010) that this Court must "give effect to the intent of the parties at the time" the order was issued.

Id. at 508. But Judge Gerber also acknowledged that as the new owner of the properties, "the purchaser would have to comply with its environmental responsibilities, starting with the day it got the property." Id.

9. The language of Paragraph 63(ii) of the Plan Modification Order in this case reflects the same distinction made by Judge Gerber in his opinion: Components was not assuming the Reorganized Debtors' environmental liabilities as a successor, but it was acknowledging its responsibilities as a buyer and new owner of the Lockport and Rochester Properties. If the parties had intended for Components to have assumed the Reorganized Debtors' obligation, the word "assume," which NYSDEC argued for, would have been included in the Plan Modification Order. It was not. Rather, Paragraph 63(ii)(2) stated that Components **acknowledged** that it would have certain responsibilities **as buyer** under applicable environmental laws, consistent with Components' position.[5]

B. Under Both New York's Brownfield Law and the Federal Superfund Law, A New Buyer's Obligation to Address Pre-Existing Contamination is More Limited than the Liability of a Prior Owner.

10. The distinction between Components' acknowledgement of certain responsibilities as a buyer of these properties – which did happen – and the assumption of the Reorganized Debtors' liabilities – which did not happen – is critical because both the New York Brownfields Cleanup Program and the federal Superfund law distinguish

[5] The fact that Components acquired environmental records from the Reorganized Debtors under the MDA is irrelevant to the issue whether Components "assumed" the Reorganized Debtors' liability. It was reasonable for Components to have copies of those records for reference in the on-going operations of the properties. Nothing in the MDA precluded the Reorganized Debtors from maintaining their own copy of those records.

between the person who owned properties when pollution occurs and buyers who acquire afterwards. Under both laws, a new owner's responsibilities are more limited than those who owned the property previously.

11. As noted in Components' initial Statement, the Brownfield Cleanup Program of the State of New York (the "BCP"), New York Environmental Conservation Law ("ECL") Article 27 Title 14, distinguishes between "Volunteers" and "Participants." Under New York law, a "Volunteer" includes "a person whose liability arises solely as a result of such person's ownership or operation of or involvement with the site subsequent to the disposal or discharge of contaminants." ECL 27-1405(1)(b). Components qualifies as a "Volunteer" under the BCP. In its in its March 16, 2010 Supplemental Response of the New York State Department of Environmental Conservation in Opposition to Reorganized Debtors' Supplemental Reply to Responses of Certain Claimants to Debtors' Objections to Proofs of Claim Nos. 13776 and 13881 ("NYSDEC Supplemental Reply"), NYSDEC acknowledged that as a Volunteer, Components would not have responsibility for pre-existing off-site contamination:

> [u]nder New York law, a Volunteer's responsibility for cleanup is more restricted than a Participant's. A Participant is required to implement a remedial program for contamination that has emanated from a site within the BCP, as well as for contamination on the site. (ECL 27-1411(2)). A Volunteer is only required to do so for contamination within the boundaries of the site. (Id.) Consequently, if GM [Components] is treated as a Volunteer at the Lockport Site, the cleanup of any off-site contamination will be the responsibility of NYSDEC.

NYSDEC Supplemental Reply ¶ 7. In its recent NYSDEC Response at ¶ ¶ 10-11, NYSDEC argues that the Plan Modification Order provides a separate basis to hold Components liable for off-site contamination as a Participant, rather than a Volunteer. But this argument is both circular and wrong: NYSDEC is arguing that if Components had assumed the Reorganized Debtors' liability, then it would not be a Volunteer. But, as discussed above, Components did not assume the Reorganized Debtors' liability. Therefore, as a purchaser, Components qualifies as a Volunteer.

12. Similar to New York law, the federal Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq., recognizes the distinction between new purchasers of contaminated property and the former owner at the time of pollution. As amended in 2002, section 107(r)(1) of CERCLA provides that "a bona fide prospective purchaser whose potential liability for a release or threatened release is based solely on the purchaser's being considered to be an owner or operator of a facility shall not be liable." 42 U.S.C. § 9607(r)(1). Thus, contrary to the Reorganized Debtor's arguments, Components, as a bona fide prospective purchaser, would not be liable under CERCLA. The responsibilities of a bona fide prospective purchaser are set forth in 42 U.S.C. § 9601(40), and they are very similar to the responsibilities of a Volunteer under ECL 27-1405(1)(b).

13. Components is not asking this Court to determine the outer limits of its responsibilities as a buyer of the Lockport or Rochester Properties under federal or state law. We agree with NYSDEC that the extent of Components' responsibility as a buyer is a subject for another proceeding. But Components believes that this Court has the authority to determine the meaning of its Plan Modification Order and to hold that

whatever responsibilities Components may have comes from the application of these laws to a new purchaser and **not** from assuming any of the Reorganized Debtors' liabilities.

14. With respect to the Lockport Property, Components understands that its responsibilities as new owner include all five of the Site Codes identified in Paragraph 63(ii)(2) of the Plan Modification Order. Components also understands, as NYSDEC describes in Response, that each of these Site Codes refers to a separate source area on the Lockport Property. Components' reason for referring to those Site Codes in its Statement was to show that NYSDEC's own Database showed that as of the date of Components' acquisition of the Lockport Property, there was no *off-site* contamination associated with those Site Codes. See Ex. A-E to Components' initial Statement. NYSDEC has not disputed that point.[6] Rather, it has submitted the Affidavit of Glen M. May to the effect that in March 2010, NYSDEC discovered certain contamination off of the Lockport property which it speculates may be associated with the historic operations of the Lockport Property. May Affidavit ¶ ¶ 4-6. But, even Mr. May admits that he is not certain whether this off-site contamination did originate from the Lockport Site, and he does not say that it is connected with any of the five Site Codes. May Affidavit at ¶ 6. This off-site contamination may or may not have originated from the Lockport Property, but it is not Components' responsibility as a new buyer of the property. As a new

[6] The Reorganized Debtors quoted a statement from a 2005 NYSDEC decision that, with respect to one of the Site Codes that NYSDEC would consider additional remedial measures if there were further groundwater migration. Reorganized Debtors Response at ¶ 19. But as of 2009 when Components acquired the property and as of today, no such off-site groundwater migration had been found. *See* Ex. A-E to Components' Initial Statement.

property owner, Components believes that it has responsibility for what happens on its property and not just within the area of the five Site Codes, but it does **not** have responsibility for contamination which left the property limits before it acquired the property. With respect to the Rochester Property, Components as the new owner has responsibility for the investigation and remediation activities associated with the Site Code, but off-site impacts are being addressed only through on-site activities.[7]

15. But as noted above, Components is not seeking to have this Court pronounce on the limits of its obligation as a buyer, but rather to have this Court hold, consistent with the language of Paragraph 63(ii) of the Plan Modification Order, that Components did not assume the liabilities of the Reorganized Debtors.

C. The Court Does Not Need to Determine the Outer Limits of Components' Responsibility to Resolve NYSDEC's Claim Because the Reorganized Debtors Remain Liable to NYSDEC at the Lockport and Rochester Properties.

16. In any event, the Court does not need to decide the extent of Components' responsibilities under federal or state law to resolve the Reorganized Debtors' Objection to NYSDEC's claim. Regardless of the extent of Components' responsibilities, the Reorganized Debtors remain liable to NYSDEC as the former owner of the Lockport and Rochester Properties, as NYSDEC itself asserts in its Response at ¶ ¶ 16-17. Nothing in

[7] Because of the nature of this proceeding, Components has not responded to all of NYSDEC's factual allegations about the Lockport and Rochester Facility. But that should not be construed as acceptance of NYSDEC's allegations. For example, in the Affidavit of Kelly C. Cloyd, Mr. or Ms. Cloyd states that a Haley & Aldrich figure shows that off-site well no. R-305 near the Rochester Property "has contained a thickness of LNAPL [Light Non-Aqueous Phase Liquid] up to 8.63 feet." Cloyd Affidavit at ¶ 7. That is an erroneous reading of the Haley & Aldrich figure which is attached as Exhibit K. Instead, the figure shows that as of 2008, there were only "TRACE" levels of LNAPL in well R-305.

either the Plan Modification Order or the MDA relieves the Reorganizes Debtors of their liabilities to NYSDEC in the claims resolution process. Under CERCLA, the statute invoked by the Reorganized Debtors, multiple parties can be held jointly and severally liable for the environmental release. United States v. Chem-Dyne Corp., 572 F. Supp. 802 (S.D. Ohio 1983). Moreover, section 107(e)(1) of CERCLA expressly provides that "[n]o indemnification, hold harmless or similar agreement or conveyance shall be effective to transfer from the owner or operator of any vessel or facility, or from any other person who may be liable for a release or threat of release under this section, to any other person, the liability under this section." 42 U.S.C. § 9607(e)(1). Therefore, regardless of what rights NYSDEC may have against Components, the conveyance of the Lockport and Rochester Properties was not effective in transferring the Reorganized Debtors' liability, and NYSDEC is not precluded from pursuing its claims before this Court against the Reorganized Debtors.

WHEREFORE, Components respectfully requests that any ruling issued by this Court with respect to the claims objection between the Reorganized Debtors and NYSDEC accurately reflect Components' obligations and rights as an owner of the New York Properties in a manner that is consistent with the documentation of the sale of the assets from the Reorganized Debtors to Components as described in the Plan Modification Order and MDA. Components respectfully requests that any Court ruling issued with respect to this claims objection be issued in a manner that does not prejudice Components' current and future obligations and rights as an owner of the New York Properties or any other assets it purchased from the Reorganized Debtors in these bankruptcy cases.

Dated: April 22, 2010

WEIL, GOTSHAL & MANGES LLP

By: /s/ Robert J. Lemons

Robert J. Lemons
767 Fifth Avenue
New York, N.Y. 10153
(212) 310-8000

- and –

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David B. Hird, Esq.
Matthew D. Morton, Esq.
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(202) 682-7000
(202) 857-0940

Attorneys for GM Components Holdings LLC

EXHIBIT I

Kirkman, Alayne

From: Berz, David
Sent: Sunday, July 19, 2009 3:01 PM
To: Kenneth.Berlin@skadden.com
Cc: Elizabeth.Malone@skadden.com; Waksman, Ted; Lemons, Robert; Tanenbaum, Jeff
Subject: Re: FW: NON-FORM OBJECTOR: Depositions of Objector Witnesses (NY Dept of Environmental Conservation)

* * *

Just got off plane from UK. I will be at home to night after 7 30. 301 229 6485. All of this seems entirely irrelevant to me. The new owner and operator will take the property subj to obligations under env law of any owner operator for sites it owns. That said, the new owners should be entitled to negotiate a with the regulators on what remedies may be required rather than simply assuming the remedies preferred by the State. If these are off site liabilities, then the debtor's liability is limited the claims process. Finally, also related to off site liabilities, the new owners should not be liable for such liabilities as the assets are to be sold free and clear and I assume the order on the sale will make clear that they are being sold as such and without any risk of future claims for successor liability.

DRB

"Berlin, Kenneth"
<Kenneth.Berlin@skadden.com>
07/19/2009 02:41 PM

To "'david.berz@weil.com'" <david.berz@weil.com>
cc "Malone, Elizabeth A" <Elizabeth.Malone@skadden.com>
Subject FW: NON-FORM OBJECTOR: Depositions of Objector Witnesses (NY Dept of Environmental Conservation)

Hi David - could we discuss this (and in general the objections of New York and Michigan) at your earliest convenience. I can be reached today at 202-468-9040.

-----Original Message-----
From: MacDonald, Neil (CHI)
Sent: Sunday, July 19, 2009 7:38 AM
To: Meisler, Ron E (CHI); Berlin, Kenneth (WAS)
Cc: Hogan III, Albert L (CHI)
Subject: NON-FORM OBJECTOR: Depositions of Objector Witnesses (NY Dept of Environmental Conservation)

I left Eugene Leff a voicemail and sent him an email this morning about setting up a deposition schedule. What's your availability?

Neil MacDonald
Skadden, Arps, Slate, Meagher & Flom LLP
155 North Wacker Drive | Suite 2700
Chicago | Illinois | 60606-1285
T: 312.407.0548 | F: 1 312 407 8633
neil.macdonald@skadden.com

-----Original Message-----
From: Meisler, Ron E (CHI)
Sent: Saturday, July 18, 2009 10:59 PM
To: MacDonald, Neil (CHI)
Cc: Hogan III, Albert L (CHI); Berlin, Kenneth (WAS)
Subject: RE: NON-FORM OBJECTOR: Proposed Hearing Witness List (NY Dept of Environmental Conservation)

This is not going away and we are going to need to get done at the confirmation hrg. I would think we should depose these guys so we know what they plan on saying. If nec'y, I would propose that Ken and I depose them with a jr litigator to help us.

-----Original Message-----
From: MacDonald, Neil (CHI)
Sent: Saturday, July 18, 2009 9:57 PM
To: Meisler, Ron E (CHI)
Cc: Hogan III, Albert L (CHI)
Subject: Re: NON-FORM OBJECTOR: Proposed Hearing Witness List (NY Dept of Environmental Conservation)

Not sure. We stayed far away from dep disco during the M/C.
This is one of those matters that we are hoping gets deferred until after the hearing, or gets decided as a matter of procedure or law gets decided straight out at the hearing.

Neil MacDonald
Skadden, Arps, Slate, Meagher & Flom LLP
T: 312.407.0548 | F: 312.407.0411

----- Original Message -----
From: Meisler, Ron E (CHI)
To: Berlin, Kenneth (WAS)
Cc: Chiappetta, Louis S (CHI); MacDonald, Neil (CHI)
Sent: Sat Jul 18 22:52:33 2009
Subject: FW: NON-FORM OBJECTOR: Proposed Hearing Witness List (NY Dept of Environmental Conservation)

Ken, fyi.

Neil, are we going to depose these guys?
-----Original Message-----
From: MacDonald, Neil (CHI)
Sent: Saturday, July 18, 2009 3:39 PM
To: Meisler, Ron E (CHI); Hogan III, Albert L (CHI); Garner, Lee P (CHI)
Cc: Stuart, Nathan L (CHI); Chiappetta, Louis S (CHI)
Subject: NON-FORM OBJECTOR: Proposed Hearing Witness List (NY Dept of Environmental Conservation)

FYI.

-----Original Message-----
From: Eugene Leff [mailto:Eugene.Leff@oag.state.ny.us]
Sent: Saturday, July 18, 2009 4:32 PM
To: MacDonald, Neil (CHI)
Cc: bxconlon@gw.dec.state.ny.us; mcdesmon@gw.dec.state.ny.us
Subject: Fw: Delphi Bankruptcy - Hearing Witness List

Neil-
The preliminary witness list of the New York State Department of Environmental Conservation for Thursday's hearing is attached. However, we object to the short notice of the witness list deadline and reserve our rights to modify the list. Further, we similarly object to the short notice provided for submission of exhibit lists.

Eugene Leff
Assistant Attorney General &
Deputy Bureau Chief
Office of the Attorney General
120 Broadway
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(212) 416-8465
(347) 346-1090 (weekends
and evenings)

Message sent from a BlackBerry Device.

==========

----- Message from "Eugene Leff" <Eugene.Leff@oag.state.ny.us> on Sat, 18 Jul 2009 16:32:16 -0400 -----

To: "MacDonald, Neil" <Neil.MacDonald@skadden.com>

cc: "bxconlon@gw.dec.state.ny.us" <bxconlon@gw.dec.state.ny.us>, "mcdesmon@gw.dec.state.ny.us" <mcdesmon@gw.dec.state.ny.us>

Subject: Fw: Delphi Bankruptcy - Hearing Witness List

Neil-
The preliminary witness list of the New York State Department of Environmental Conservation for Thursday's hearing is attached. However, we object to the short notice of the witness list deadline and reserve our rights to modify the list. Further, we similarly object to the short notice provided for submission of exhibit lists.

Eugene Leff
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(212) 416-8465
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and evenings)

Message sent from a BlackBerry Device.

----- Message from "Gene Leff" <elgene10@earthlink.net> on Sat, 18 Jul 2009 16:19:41 -0400 -----

To: "eleff@oag.state.ny.us" <eleff@oag.state.ny.us>

Subject: Delphi Bankruptcy - Hearing Witness List

[attachment "Delphi Bankruptcy Witness List.doc" deleted by David Berz/DC/WGM/US]

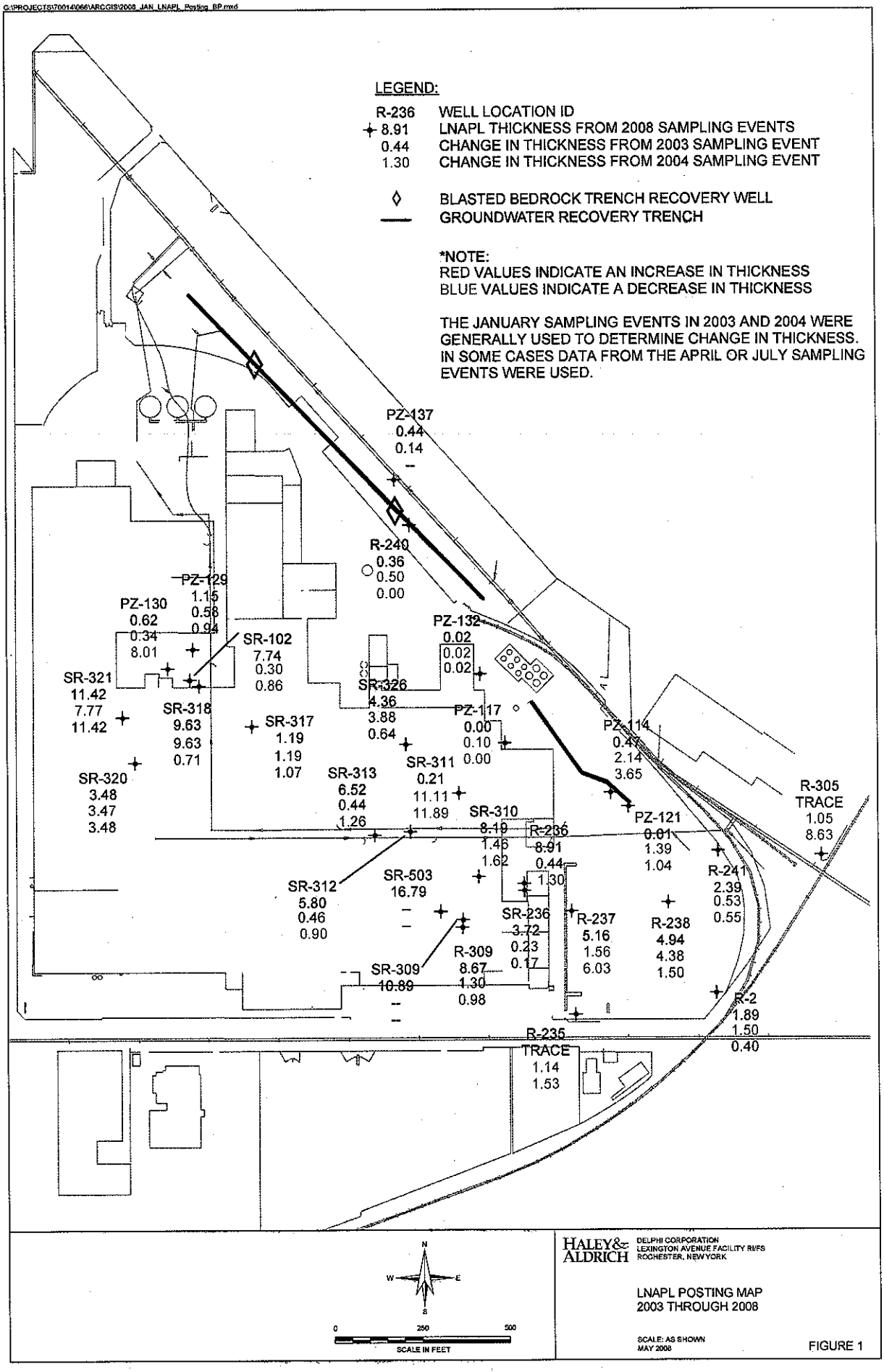
EXHIBIT J

Kirkman, Alayne

From: Berlin, Kenneth [Kenneth.Berlin@skadden.com]
Sent: Sunday, July 19, 2009 6:30 PM
To: Berz, David
Subject: RE: FW: NON-FORM OBJECTOR: Depositions of Objector Witnesses (NY Dept of Environmental Conservation)

I will get you a copy of the latest draft of the Sales Order. Unlike the GM bankruptcy, I don't believe that anyone has argued that GM has successor liability and there is clearly no basis for such an argument in this transaction. I will call you later to discuss the objections and the witnesses..

EXHIBIT K


G:\PROJECTS\70014\066\ARC\GIS\2008_JAN_LNAPL_Posting_BP.mxd
LEGEND:
R-236 WELL LOCATION ID
8.91 LNAPL THICKNESS FROM 2008 SAMPLING EVENTS
0.44 CHANGE IN THICKNESS FROM 2003 SAMPLING EVENT
1.30 CHANGE IN THICKNESS FROM 2004 SAMPLING EVENT
BLASTED BEDROCK TRENCH RECOVERY WELL
GROUNDWATER RECOVERY TRENCH
*NOTE:
RED VALUES INDICATE AN INCREASE IN THICKNESS
BLUE VALUES INDICATE A DECREASE IN THICKNESS
THE JANUARY SAMPLING EVENTS IN 2003 AND 2004 WERE GENERALLY USED TO DETERMINE CHANGE IN THICKNESS. IN SOME CASES DATA FROM THE APRIL OR JULY SAMPLING EVENTS WERE USED.
PZ-137 0.44 0.14
R-240 0.36 0.50 0.00
PZ-129 1.15 0.58 0.94
PZ-130 0.62 0.34 8.01
SR-102 7.74 0.30 0.86
PZ-132 0.02 0.02 0.02
SR-321 11.42 7.77 11.42
SR-318 9.63 9.63 0.71
SR-317 1.19 1.19 1.07
SR-326 4.36 3.88 0.64
PZ-117 0.00 0.10 0.00
PZ-114 0.47 2.14 3.65
SR-320 3.48 3.47 3.48
SR-313 6.52 0.44 1.26
SR-311 0.21 11.11 11.89
SR-310 8.19 1.46 1.62
R-236 8.91 0.44 1.30
PZ-121 0.01 1.39 1.04
R-305 TRACE 1.05 8.63
R-241 2.39 0.53 0.55
SR-312 5.80 0.46 0.90
SR-503 16.79
SR-236 3.72 0.23 0.17
R-237 5.16 1.56 6.03
R-238 4.94 4.38 1.50
R-309 8.67 1.30 0.98
SR-309 10.89
R-2 1.89 1.50 0.40
R-235 TRACE 1.14 1.53
N
W
E
S
0 250 500
SCALE IN FEET
HALEY& ALDRICH
DELPHI CORPORATION
LEXINGTON AVENUE FACILITY RI/FS
ROCHESTER, NEW YORK
LNAPL POSTING MAP
2003 THROUGH 2008
SCALE: AS SHOWN
MAY 2008
FIGURE 1